

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

KARAMJEET S. PAUL,)
)
Petitioner)
)
vs.)
)
DAVID L. WINN, Warden)
Federal Medical Center, Devens,)
)
Respondent)
)

Civil Action No. 04-40037-RCL

**PETITIONER'S MOTION TO TREAT RESPONDENT'S MOTION TO DISMISS,
ASSERTING F.R.Civ.P. RULE 12(b)(6),
AS ONE FOR SUMMARY JUDGMENT AND TO TAKE
THE PETITIONER'S OPPOSITION AS A CLAIMANT'S MOTION FOR
SUMMARY JUDGMENT UNDER RULE 56(a)**

The Petitioner moves, pursuant to F.R.Civ.P. Rule 12(b), that the Respondent's Motion to Dismiss asserting Rule 12(b)(6) be treated as one for Summary Judgment and that the Petitioner's Opposition be treated as a Claimant's Motion for Summary Judgment under Rule 56(a).

In support of this motion, the Petitioner states:

1. Matters outside of the pleadings have been presented to the Court by the Respondent and if not excluded by the Court Rule 12(b) require the Court to treat the Motion to Dismiss as one for Summary Judgment.

2. The Petitioner's opposition fully argues against the Motion to Dismiss with a legal argument in favor of relief sought in the Petition and there is no genuine issue as to any material fact.

3. Treating the two pleadings together as cross motions for Summary Judgment would comply with the scope and purpose of the Rules "to secure

the just, speedy, and inexpensive determination of every action" (F.R.Civ. P. Rule 1), particularly in view of the time-sensitive nature of the relief being sought and the disparate resources of the Pro Se Petitioner and the government Respondent.

Dated: June 7, 2004

RESPECTFULLY SUBMITTED,

KS Paul

KARAMJEET S. PAUL, Pro Se
38516-060 Unit I
Federal Medical Center, Devens
P.O. Box 879
Ayer, MA 01432

CERTIFICATE OF SERVICE

I certify that the foregoing document was served upon Anton P. Giedt, Assistant United States Attorney, by my depositing a copy thereof in the internal mailing system at Federal Medical Center, Devens Camp, postage prepaid, addressed to the Office of the United States Attorney, John Joseph Moakley Courthouse, One Courthouse Way, Suite 9200, Boston, MA 02210 on this 7th day of June 2004.

I swear under the penalties of perjury that the foregoing is true on this 7th day of June 2004.

KS Paul

KARAMJEET S. PAUL, Pro Se
38516-060 Unit I
Federal Medical Center, Devens
P.O. Box 879
Ayer, MA 01432